

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

BOOKER HARLAN,)	
)	
Plaintiff)	
)	
vs.)	No. 4:16-cv-108
)	
DEARBORN NATIONAL LIFE)	
INSURANCE COMPANY)	
)	
Defendant)	

APPENDIX TO NOTICE OF REMOVAL

Defendant Dearborn National Life Insurance Company respectfully files the following
Appendix to Notice of Removal.

- Exhibit 1: Docket Sheet from Case No. 2015-03451; Booker Harlan v. Dearborn National Life Insurance Company; In the 189th District Court, Harris County, Texas.
- Exhibit 2: Original Citation to Dearborn National in Case No. 2015-03451, issued November 30, 2015.
- Exhibit 3: Original Petition in Case No. 2015-03451, filed January 22, 2015.
- Exhibit 4: Notice of Intent to Dismiss – No Answer Filed, in Case No. 2015-03451, issued on August 19, 2015.
- Exhibit 5: Order dismissing case for want of prosecution, in Case No. 2015-03451, issued on November 12, 2015.
- Exhibit 6: List of all counsel of record.

Respectfully submitted,

By: /s/ Andrew F. MacRae
ANDREW F. MACRAE
State Bar No. 00784510
LEVATINO|PACE LLP
1101 S. Capital of Texas Hwy
Building K, Suite 125
Austin, Texas 78746
Tel: (512) 637-1581
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andrew@lpfirm.com

Attorneys for Defendant

HCDistrictclerk.com**HARLAN, BOOKER vs. DEARBORN NATIONAL LIFE
INSURANCE COMPANY****1/14/2016****Cause: 201503451****CDI: 7****Court: 189****DOCUMENTS**

Number	Document	Post Jdgm	Date	Pgs
68495544	Motion to Transfer Venue, Plea to the Jurisdiction, Pleas in abatement and Original Answer		01/08/2016	10
-> 68495545	Exhibit 01		01/08/2016	3
68355537	certified mail return		12/22/2015	2
68267555	US Postal Service Certified Mail Receipt		12/15/2015	1
68232826	Certified Mail Tracking Number 7015 1520 0003 3653 6072		12/03/2015	1
67850412	DISMISSED FOR WANT OF PROSECUTION NO COSTS ALLOCATED		11/12/2015 11/12/2015	1
67579737	Civil Process Request		10/23/2015	1
67579738	Civil Process Request		10/23/2015	1
66731020	NOTICE OF INTENT TO DISMISS - NO ANSWER FILED		08/19/2015	2
64297759	Citation undelivered		02/16/2015	4
63932891	plaintiff's ORIGINAL PETITION and jury demand		01/22/2015	4
-> 63932892	civil process request		01/22/2015	2

EXHIBIT 1

CAUSE NO. 201503451

RECEIPT NO. 20040
12-01-2015

75.00

CTM

TR # 73193457

PLAINTIFF: HARLAN, BOOKER

vs.

DEFENDANT: DEARBORN NATIONAL LIFE INSURANCE COMPANY

In The 189th
Judicial District Court
of Harris County, Texas
189TH DISTRICT COURT
Houston, TX

CITATION (CERTIFIED)

THE STATE OF TEXAS
County of HarrisTO: DEARBORN NATIONAL LIFE INSURANCE COMPANY BY SERVING ITS REGISTERED
AGENT CORPORATION SERVICE COMPANY
211 EAST 7TH STREET SUITE 620 AUSTIN TX 787013218Attached is a copy of PLAINTIFF'S ORIGINAL PETITION & JURY DEMANDThis instrument was filed on the 30th day of November, 2015, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 3rd day of December, 2015, under my hand and seal of said Court.

Issued at request of:HERREN, WILLIAM. C
6363 WOODWAY, SUITE 825
HOUSTON, TX 77057
Tel: (713) 682-8194
Bar No.: 9529500CHRIS DANIEL, District Clerk
Harris County, Texas
81 Caroline Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

GENERATED BY: EVANS, BONISHA EBONY C1V/A4L/1025399

CLERK'S RETURN BY MAILING

Came to hand the _____ day of _____, _____, and executed by mailing to Defendant certified mail, return receipt requested, restricted delivery, a true copy of this citation together with an attached copy of PLAINTIFF'S ORIGINAL PETITION & JURY DEMAND to the following addressee at address:

ADDRESSEE

ADDRESS

Service was executed in accordance with Rule 106(a)
(2) TRCP, upon the Defendant as evidenced by the
return receipt incorporated herein and attached
hereto at _____on _____ day of _____,
by U.S. Postal delivery to _____This citation was not executed for the following
reason: _____CHRIS DANIEL, District Clerk
HARRIS COUNTY, T E X A S

By _____, Deputy



1/22/2015 12:33:13 PM
Chris Daniel - District Clerk Harris County
Envelope No. 3861057
By: Sherryl Dewalt
Filed: 1/22/2015 12:33:13 PM

2015-03451 / Court: 189

NO. _____

Booker Harlan
Plaintiff

v.

Dearborn National Life Insurance Company,
Defendant

§ IN THE DISTRICT COURT

§

§

§

§

§

§

§

OF HARRIS COUNTY, TEXAS

_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND

Plaintiff, Booker Harlan ("Plaintiff") files this Petition against Defendant Dearborn National Life Insurance Company ("Defendant"). Plaintiff respectfully shows the Court the following:

Discovery Control Plan

1. Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.

Parties

2. Plaintiff is a resident and citizen of Harris County, Texas.
3. Defendant is an insurer engaged in the business of insurance in Texas. Plaintiff will serve Defendant by serving its Registered Agent as follows:

Mr. Andrew Macrae
Bldg. K, Suite 125
1101 South Capital of Texas Highway
Austin, Texas 78746-7174

The Nature of this Suit.

4. This suit is brought to recover damages for breach of an agreement to pay disability benefits pursuant to a contract or policy of insurance ("the Policy"). The Policy was issued to Plaintiff's employer, Houston Community College, by Defendant. Plaintiff is a beneficiary under the terms of the Policy.

Plaintiff's Allegations.

5. All conditions precedent to bringing this suit have been performed or have occurred. Any notice required by the Policy has been made or has been waived by Defendants.

6. Plaintiff is disabled, as defined by the Policy, due to chronic medical conditions.

Breach of Contract

7. Plaintiff has fully performed all of his obligations under the terms of the Policy.

8. Plaintiff will introduce the Policy, a written document, into evidence.

Repudiation

9. Defendant repudiated the contract by refusing to perform its obligations without just excuse. Its reasons for terminating Plaintiff's benefits are not reasonable under the facts of the claim and do not constitute a bona fide dispute as to coverage of the Policy but instead amount to an unreasonable refusal to perform its contractual obligations to Plaintiff.

Breach of Duty of Good Faith and Fair Dealing

10. Defendant, as Plaintiff's insurer, had a common law duty to deal fairly and in good faith

with him in the processing of his claim. Defendant breached its duty by refusing to properly investigate his claim. Defendant knew or should have known that there was no reasonable basis for terminating the benefits due under the Policy. As a result of Defendant's breach of its duty to deal fairly and in good faith Plaintiff has suffered exemplary damages which he will prove.

Request for Relief

11. Plaintiff has sustained actual and exemplary damages resulting from Defendant's breach of the Policy, repudiation, breach of its duty to deal fairly and in good faith, plus common law pre-judgment interest applied to each installment until the date of judgment, all within the minimum jurisdictional limits of this Court.

Future monthly benefits beginning on the date of judgment and extending for the duration of the Policy period;

Statutory damages of eighteen percent (18%) per annum applied to actual damages;

Attorney fees;

Costs of suit;

Post-judgment interest.

And for general and special relief to which he is entitled.

Wherefore, Premises Considered, Plaintiff respectfully requests that he have judgment against Defendants for actual damages, exemplary damages, statutory damages, common law pre-judgment interest, and post-judgment interest as allowed by law, costs of suit, attorney fees and all other relief, at law or in equity, to which he may be entitled.

Respectfully submitted,



William C. Herren
SBN 09529500
6363 Woodway, Suite 825
Houston, Texas 77057
(713) 682-8194
(713) 682-8197 Fax
billh@herrenlaw.com

Date: January 22, 2015

Jury Demand

Plaintiff hereby demands a trial by jury and tenders the necessary fee.



Case No. 201503451

HARLAN, BOOKER

vs.

DEARBORN NATIONAL LIFE INSURAN

*
*
*
*
*

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

189th JUDICIAL DISTRICT

NOTICE OF INTENT TO DISMISS - NO ANSWER FILED

To All Counsel and Pro Se Parties:

Court records indicate that this case is eligible for dismissal for want of prosecution because no answer has been filed in this case. The case will be **DISMISSED FOR WANT OF PROSECUTION**, unless one of the following actions is taken by **09-25-2015**.

1. You file and have heard, by oral hearing or written submission, a meritorious motion for default judgment (addition instructions on the back); or,
2. An answer is filed; or,

If neither of the above has been done, then you must file a verified motion to retain, showing good cause to retain the case or diligence in prosecution to avoid dismissal, and appear at the oral hearing, to be held at the Harris County Civil Courthouse, 201 Caroline, Houston, Texas 77002, on **09-25-2015** at **08:30 AM**.

If you file a verified motion to retain, you must appear for the oral hearing unless otherwise advised. Failure to appear at the oral hearing will result in the case being **DISMISSED FOR WANT OF PROSECUTION**. If you have any questions regarding this notice, please contact the court coordinator, CATHY NORTON at (713) 368-6296.

Thank you for your prompt attention to this matter.

WILLIAM R BURKE JR
Judge, 189TH DISTRICT COURT
Generated on: 08/19/2015



William. C Herren
16421 Pecan St
Channelview TX 77530-4443

09529500

NOTICE REGARDING NON-MILITARY AFFIDAVIT

If you file a Motion for Default Judgment, you must comply with the requirements of 50 U.S.C. App. §521, Section 201.

The requirements for the non-military affidavit are now more detailed.

You are required to state facts to support whatever you assert in the affidavit.

READ THE FEDERAL STATUTE.

A non-complying Motion for Default Judgment will not be granted and will not be sufficient to avoid dismissal for want of prosecution.

Unofficial Copy Office of Chris Daniel District Clerk

CAUSE NO. 2015-03451

Pgs-1

HARLAN, BOOKER

vs.

DEARBORN NATIONAL LIFE
INSURANCE COMPANY

§ IN THE DISTRICT COURT OF
§
§ HARRIS COUNTY, T E X A S
§
§ 189TH JUDICIAL DISTRICT

NCA
3

ORDER

IT IS HEREBY ORDERED that this case is dismissed for want of prosecution.

SIGNED November 12, 2015.


JUDGE WILLIAM R. BURKE, JR.

Unofficial Copy Office of Chris Daniel District Clerk

EXHIBIT 5

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

BOOKER HARLAN,)	
)	
Plaintiff)	
)	
vs.)	No. 4:16-cv-108
)	
DEARBORN NATIONAL LIFE)	
INSURANCE COMPANY)	
)	
Defendant)	

LIST OF COUNSEL OF RECORD

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Counsel for Defendant Dearborn National Life Insurance Company

EXHIBIT 6